



UNITED STATES PATENT AND TRADEMARK OFFICE

for 08/977644
R# 395-43
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 21

DORSEY & WHITNEY
555 CALIFORNIA STREET
SUITE 1000
SAN FRANCISCO, CA 94104-1513

COPY MAILED

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,536,501 :
Issue Date: July 16, 1996 :
Application No. 08/366,974 :
Filed: December 30, 1994 :
Patentee(s) Ralph W. Emerson et al :
:

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 26, 2005, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Petitioner will not receive future correspondence related to maintenance fees for the above-identified patent unless a "fee address" indication form is submitted for the above-identified patent.

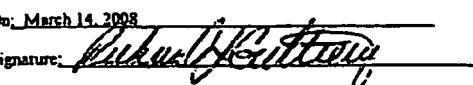
Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The patent file is being forwarded to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

469101-41
File 4-70631 Atty 83415/M/L/K/J
Due Date 11/16/2008
Type 11.1 Tax Refs -

EXHIBIT 3

| | | | | | | | |
|---|---|---|---|--|--|---------|----------|
| MAINTENANCE FEE TRANSMITTAL FORM <i>(Do not submit this form electronically via EFS-Web)</i> | | | | | <i>Received PTO-2038 2/19/08</i> MAR 18 2008 | | |
| Address to: U.S. Patent and Trademark Office P.O. Box 979070 St. Louis, MO 63197-9000 | | | | | <small>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "U.S. Patent and Trademark Office, P.O. Box 979070, St. Louis, MO 63197-9000"</small> | | |
| - OR - | | | | | | | |
| <small>I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office in accordance with § 1.6(d), facsimile number 571-273-6500.</small> | | | | | | | |
| Fax to: 571-273-6500 <i>On: March 14, 2008</i> Signature:  Type or printed name: <u>Richard J. Gutierrez</u> | | | | | | | |
| Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s). | | | | | | | |
| <ol style="list-style-type: none"> <input type="checkbox"/> A check for the amount of \$ ____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge \$1,955 plus the \$65 surcharge to cover the payment of the fee indicated below to Deposit Account No. 50-0310 (Our Docket no. 67702-5002-US04). <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 50-0310 (Our Docket no. 67702-5002-US04). | | | | | | | |
| <small>*Information required by 37 C.F.R. 1.366(c) (columns 1 & 4). Information requested under 37 C.F.R. 1.366(d) (columns 2, 3, & 5)</small> | | | | | | | |
| <small>1-16-01</small> Item Column 1 | <small>Patent Number*</small> Column 2 [06/555,555] | <small>U.S. Application Number*</small> Column 3 [08/366,974] | <small>Maintenance Fee Amount</small> Column 4 (37 C.F.R. 1.20 (c)-(g)) | <small>Surcharge Amount</small> Column 5 (37 C.F.R. 1.20 (h)) | <small>Payment Year (select one below) Column 5</small> | | |
| | | | | | 3.5 yrs | 7.5 yrs | 11.5 yrs |
| 1 | 5,536,501 RE39,543 | 08/366,974 08/977,644 | \$1,955 | \$65 | | | X |
| 2 | | | | | | | |
| 3 | | | | | | | |
| 4 | | | | | | | |
| 5 | | | | | | | |
| 6 | | | | | | | |
| <small>Subtotal Columns 3 & 4</small> Total Payment | | | | \$2,020 | <input type="checkbox"/> additional sheets attached for listing additional patents. | | |
| WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. | | | | | | | |
| Respectfully submitted,** | | | | Fee Address: Morgan, Lewis & Bockius LLP One Market, Spear Street Tower, San Francisco, California 94105 | | | |
| Customer's name: <u>David J. Brezner</u> Reg. No. <u>24,774</u> | | | | | | | |
| Telephone: <u>415.442.1000</u> | | | | | | | |
| Fax: <u>415.442.1001</u> | | | | | | | |
| Customer's Signature:  | | | | | | | |
| <small>Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 C.F.R. 1.363. Payment of small entity fee is appropriate if small entity status still exists, see 37 C.F.R. 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 C.F.R. 1.27 and 1.33(b).</small> | | | | | | | |
| <small>** WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.</small> | | | | | | | |



UNITED STATES PATENT AND TRADEMARK OFFICE

67702-500C US 04

PTO-2142 (09-05)

DIB-AM-(JKB)

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105
ATTN. DAVID BREZNER

DUCKETED

Agree

March 20, 2008

NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

REGARDING PATENT NUMBER: RE39543

PAYMENT STATUS:

Payment Amount Received: \$ 2,020.00No charge was applied to your deposit account.Payment Year 11.5 (e.g., 3.5, 7.5, 11.5)

500310

PAYMENT RECEIPT DATE 03/14/2008
(Mailroom Date Stamp)

Your payment was not accepted for the following reason(s):

1. The maintenance fee for the above-identified patent was previously paid on _____.
 Information regarding the previous payment is stated in item 8 below.

2. The patent expired on 07/16/2004. See "Patent Expiration" section below.

3. The fee was paid too early. See 37 CFR 1.366(b). Pursuant to 37 CFR 1.362(d), the payment window will open for the above-identified patent on _____.

4. Your payment was not sufficient to cover the maintenance fee and any required surcharge for the above-identified patent. An additional amount of \$ _____ is/was required.

5. The above-identified patent was reissued. In accordance with 37 CFR 1.366(d), the reissue patent number and reissue application number must be provided.

6. The payment did not include corresponding patent and application numbers, and was not specially accepted.

7. The above-identified patent is not subject to maintenance fees. No maintenance fees are due on utility patents filed before 12/11/80. No maintenance fees are due on design patents or on plant patents. See 37 CFR 1.362(a) and (b). (The "Resubmitting Maintenance Fee Payment" and "Patent Expiration" sections below do not apply.)

8. Other: _____.

Resubmitting Maintenance Fee Payment

The six (6) month "grace period" for paying the maintenance fee for the above-identified patent begins on _____ and ends on _____. In addition to the maintenance fee of \$ _____, a resubmitted payment filed in the USPTO during the 6 month "grace period" is required to include a surcharge of \$ _____. (See "Note" at the bottom of this Notice.)

To avoid patent expiration, the maintenance fee plus any required surcharge must be resubmitted in a manner that rectifies all of the indicated reason(s) for payment non-acceptance and *must be filed on or before the date the 6 month "grace period" ends*. Send by facsimile to the Office of Finance, Maintenance Fee Branch at (571) 273-6500, or by mail to the following address: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450, to the attention of the individual who has signed below.

Patent Expiration

The date the six (6) month "grace period" ends becomes the expiration date of the above-identified patent if the required amount for paying the maintenance fee is not filed in the USPTO by that date. See 37 CFR 1.362(g). Expired patents may be reinstated if a petition as set forth in 37 CFR 1.378 is granted. If the above-identified patent has expired and reason number 5 or 6 above is the only reason indicated for payment non-acceptance, it is possible that the payment may be accepted if resubmitted with a petition as set forth in 37 CFR 1.377, rather than 37 CFR 1.378.

If you have any questions regarding this Notice, contact the Office of Finance, Maintenance Fee Branch at (571) 272-6500. Please ask for the individual who has signed below.

Shannon Harrison (571) 272-6386

Printed Name of USPTO Representative

Signature of USPTO Representative

NOTE: All USPTO fees (including patent maintenance fees) are subject to change. If you are making a payment, visit the www.uspto.gov website or contact the Office of Finance to verify the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.

EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

EMERSON, Ralph W. et al.

Patent No.: **RE39,543**

Issue Date: **April 3, 2007**

Application No.: **08/977,644**

Filing Date: **November 24, 2007**

For: ***Use of Aromatic Aldehydes as Insecticides***

Examiner: **LEVY, Neil S.**

Art Unit: **1615** Confirmation No.: **3349**

CERTIFICATE OF ELECTRONIC TRANSMISSION UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence, including listed enclosures, is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office in accordance with § 1.6(a)(4) on:

Dated: June 10, 2008

Signed: Jennifer C. Black
Jennifer C. Black

PETITION IN RESPONSE TO NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for acceptance of the maintenance fee payment for year 11.5 of the above-referenced patent.

This petition is in response to the Notice of Non-Acceptance of Patent Maintenance Fee dated March 20, 2008. A copy of the same is enclosed (Exhibit 1).

The above-referenced patent is a re-issue of Patent No. 5,536,501 which issued July 16, 1996.

Patent No. 5,536,501 expired on July 15, 2004 for failure to pay the 7.5 year maintenance fee.

Consequently, a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in Expired Patent (37 C.F.R. § 1.378 (c)) was filed on September 23, 2005 including Check #303498 in the amount of \$2,790.00 with the United States Patent and Trademark Office. Copies of the same are enclosed (Exhibit 2).

A Decision dated November 4, 2005 was issued by the Office of Petitions. This decision stated that the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in Expired Patent (37 C.F.R. § 1.378 (c)) was GRANTED and that the maintenance fee "is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision." A copy of the same is enclosed (Exhibit 3).

The subject re-issued patent granted under Patent No. RE39,543 on April 3, 2007.

Based on the grant of the Petition and the reinstatement of Patent No. 5,536,501, a maintenance fee transmittal form with authorization for the Commissioner to charge the Maintenance Fee Amount and the Surcharge Amount for RE39,543 (referencing Patent No. 5,536,501) was filed with the United States Patent and Trademark Office on March 14, 2008 for the 11.5 Payment Year. A copy of the same is enclosed (Exhibit 4).

Based on the above set of facts, we hereby request the grant of this petition and acceptance of the maintenance fee payment for Year 11.5 of RE39,543.

The Commissioner is authorized to charge the payment of the 11.5 year maintenance fee (\$1,955.00) and surcharge (\$65.00) and any other fees, which maybe required, or credit any overpayment to Deposit Account No. 50-0310 (Docket No.: 067702-5002-US04) for the grant of this petition.

If there are any questions with regard to the foregoing, please call applicant's attorney at 415-442-1000.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

David J. Brezner

David J. Brezner, Reg. No. 24,744

Dated: June 10, 2008

By:

Customer Number: 67374

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower
San Francisco, California 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

EMERSON, Ralph W. et al.

Patent No.: **RE39,543**

Issue Date: **April 3, 2007**

Application No.: **08/977,644**

Filing Date: **November 24, 2007**

For: ***Use of Aromatic Aldehydes as Insecticides***

Examiner: **LEVY, Neil S.**

Art Unit: **1615** Confirmation No.: **3349**

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Dated: June 10, 2008

Signed: Jennifer C. Black
Jennifer C. Black

PETITION IN RESPONSE TO NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

David J. Brezner

David J. Brezner, Reg. No. 24,744

Dated: June 10, 2008

By:

Customer Number: 67374

MORGAN, LEWIS & BOCKIUS LLP (SF)

One Market, Spear Street Tower

San Francisco, California 94105

Telephone: (415) 442-1000

Faxsimile: (415) 442-1001

RECEIVED PTO-2038 MAR 18 2008

MAINTENANCE FEE TRANSMITTAL FORM
(Do not submit this form electronically via EFS-Web)

MAR 18 2008

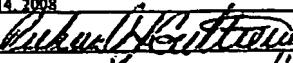
Address to:
U.S. Patent and Trademark Office
P.O. Box 979070
St. Louis, MO 63197-9000

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "U.S. Patent and Trademark Office, P.O. Box 979070, St. Louis, MO 63197-9000"

- OR -

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office in accordance with § 1.6(d), facsimile number 571-273-6500.

On: March 14, 2008

Signature: 

Typed or printed name: Richard J. Gutierrez

Fax to: 571-273-6500

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. A check for the amount of \$ ____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
2. Payment by credit card. Form PTO-2038 is attached.
3. The Commissioner is hereby authorized to charge \$1,955 plus the \$65 surcharge to cover the payment of the fee indicated below to Deposit Account No. 50-0310 (Our Docket no. 67702-5002-US04).
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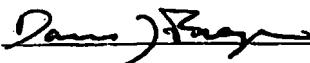
*Information required by 37 C.F.R. 1.366(c) (columns 1 & 4). Information requested under 37 C.F.R. 1.366(d) (columns 2, 3, & 5)

| Item | Patent Number* Column 1 | U.S. Application Number* [06/555,555] Column 2 | Maintenance Fee Amount (37 C.F.R. 1.20 (e)-(g)) Column 3 | Surcharge Amount (37 C.F.R. 1.20 (h)) Column 4 | Payment Year (select one below) Column 5 | | |
|------------------------|----------------------------|--|--|--|--|---|----------|
| | | | | | 3.5 yrs | 7.5 yrs. | 11.5 yrs |
| 1 | 5,536,501 RE39,543 | 08/366,974 08/977,644 | \$1,955 | \$65 | | | X |
| 2 | | | | | | | |
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| 5 | | | | | | | |
| 6 | | | | | | | |
| Subtotal Columns 3 & 4 | | | | | | <input type="checkbox"/> additional sheets attached for listing additional patents. | |
| Total Payment | | | | \$2,020 | | | |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Respectfully submitted,**

Fee Address:

Customer's name: David J. Brezner
Reg. No. 24,774Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower, San Francisco,
California 94105Telephone: 415.442.1000Fax: 415.442.1001Customer's Signature: 

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 C.F.R. 1.363.
 Payment of small entity fee is appropriate if small entity status still exists, see 37 C.F.R. 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 C.F.R. 1.27 and 1.33(b).

** WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

1-SF/7677014.1

EXHIBIT 4